UNITED STATES OF AMERICA DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States)
Department of Housing and Urban)
Development, on behalf of)
Bonita Widell and Fair Housing Council)
of Oregon,)
) FHEO Case Numbers:
Charging Party,) 10-05-0172-8
) 10-05-0179-8
)
V.)
)
D&S Investments, LLC; Stan Crawford;)
and Claudia Allen,)
)
Respondents.)
)

CHARGE OF DISCRIMINATION

I. JURISDICTION

On or about May 2, 2005 and May 16, 2005, respectively, Complainants Bonita Widell and the Fair Housing Council of Oregon filed complaints of discrimination with the United States Department of Housing and Urban Development (HUD) alleging that D&S Investments, LLC; Stan Crawford; Claudia "Doe"; and Mike "Doe" violated the Fair Housing Act (the Act) 42 U.S.C. §§ 3601 *et seq.*, by discriminating against them in violation of 42 U.S.C. §§ 3604(f)(1), (f)(2), (f)(3)(A), and (f)(3)(B). On June 5, 2006, Mike "Doe" Moody was dismissed as a Respondent and a claim of retaliation was added to the complaints, alleging a violation of 42 U.S.C. § 3617. Additionally, Claudia "Doe" was changed to Claudia Allen.

The Act authorizes issuance of a charge of discrimination on behalf of the aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. § 3610 (g)(1)-(2). The Secretary has delegated to the General Counsel (54 Fed. Reg. 13121), who has redelegated to the Regional Counsel (67 Fed. Reg. 44234), the authority to issue such a charge, following a determination of reasonable cause by the Assistant Secretary for Fair Housing and Equal Opportunity or his or her designee.

The Regional Director for Fair Housing and Equal Opportunity, Region X, has determined that reasonable cause exists to believe that discriminatory housing practices have occurred and authorized the issuance of this Charge of Discrimination.

II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE OF DISCRIMINATION

Based on HUD's investigation of the allegations contained in the aforementioned Complaint and the aforementioned Determination of Reasonable Cause, Respondents D&S Investments, LLC; Stan Crawford; and Claudia Allen are charged with discriminating against Complainants Bonita Widell and Fair Housing Council of Oregon in violation of 42 U.S.C. §§ 3604(f)(1), (f)(2), (f)(3)(A), (f)(3)(B), and 3617 of the Act as follows:

- 1. It is unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of the disability of that renter. 42 U.S.C. § 3604(f)(1).
- 2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of the disability of that person. 42 U.S.C. § 3604(f)(2).
- 3. It is unlawful to refuse to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises. 42 U.S.C. § 3604(f)(3)(A).
- 4. It is unlawful to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.
 42 U.S.C. § 3604(f)(3)(B).
- 5. It is unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, any right granted or protected by the Act. 42 U.S.C. § 3617.
- 6. Complainant Bonita Widell is a person with a disability. At all relevant times, Complainant Widell was legally blind due to Pan-uveitis, cataracts, and glaucoma. Complainant Widell is also mobility impaired due to Multiple Sclerosis and requires the assistance of a cane. Due to her disabilities, Complainant Widell is unable to identify a person standing near her by sight. She can only see shadows and silhouettes of people. She also has difficulty walking and using such devices as a telephone.
- 7. Kaylene Harmon was Complainant Widell's caregiver while Complainant Widell lived at the subject property.

- 8. Complainant Fair Housing Council of Oregon (FHCO) is an Oregon non-profit corporation. Complainant FHCO's purpose is to advance equal access to housing and to enforce civil rights laws for all persons in Oregon and Southwest Washington, without regard to race, color, sex, religion, national origin, familial status or disability, through education and outreach.
- 9. Respondent D&S Investments, LLC owns Green Acres Mobile Home Park (GAMHP). Respondent Stan Crawford represented that he owns GAMHP and is responsible for oversight of the property including staff.
- 10. At all relevant times, Respondent Claudia Allen managed the subject property.
- 11. The subject property, Green Acres Mobile Home Park, is located at 53752 Appleton Road, Milton-Freewater, OR 97862. The subject property consists of 74 rental spaces in a mobile home park.
- 12. Complainant Widell purchased a mobile home that was situated on space number 28 at GAMHP and began renting that space on or about March 24, 2004 from the Respondents. The approximate size of space number 28 is 40' x 80'.
- 13. Complainant Widell's yard was not common space and she was responsible for maintaining it.
- 14. At all relevant times, three gates were located on the subject property, two of which were locked.
- 15. At issue is a third gate (the subject gate) located in a fence at the rear of Complainant Widell's mobile home space at the subject property. This gate was not locked.
- 16. Tenants and non-tenants of the subject property, coming from the other side of the fence, would traverse through the subject gate from the street. Those individuals would then traverse the back and side of Complainant Widell's lot in order to access destinations on her side of the fence, despite the existence of an alternative street route that would not have required individuals to cross Complainant Widell's lot. Those individuals using the subject gate in the reverse, would walk back onto Complainant Widell's lot on the side and rear of her home and through the subject gate to the street on the other side of the fence.
- 17. All of the lots, as well as the management office, laundry facility, mailboxes, and children's play area are accessible by roads within the subject property. The subject gate did not allow access to otherwise inaccessible areas of the park.

- 18. In or about May or June 2004, Complainant Widell informed Respondent Allen that a man with a dog had walked through the subject gate at the back of her lot and onto her lot. Complainant Widell told Respondent Allen that she was afraid of people walking through her yard because of her vision and mobility impairments, feared for her safety, and asked for permission to place a lock on the subject gate.
- 19. Respondent Allen told Complainant Widell that she and Respondent Crawford had determined that the subject gate could not be locked due to emergency personnel, maintenance, and other tenants needing to access one side of the property to the other through the subject gate. The Respondents failed to grant Complainant Widell's request for a reasonable modification to place a lock on the subject gate.
- 20. In or about September 2004, after learning from a neighbor that the previous tenants of space number 28, Complainant Widell's space, had placed a lock on the subject gate to restrict people from walking through the lot, Complainant Widell placed her own lock on the subject gate.
- 21. On or about October 27, 2004, Mike Moody, maintenance man at the subject property, took the lock off the subject gate. Alleging that she heard yelling, Respondent Allen stated that she went to investigate and found Complainant Widell and Ms. Harmon arguing with Mr. Moody about the lock. Mr. Moody had removed the lock, but upon request by Complainant Widell, was putting it back. Respondent Allen instructed Mr. Moody not to replace the lock.
- 22. Complainant Widell again informed Respondent Allen that she wanted to restrict access into her yard because she is blind and cannot tell who is walking through her yard. Respondent Allen denied Complainant Widell's request for a reasonable modification to keep the lock on the subject gate and to restrict the use of the subject gate by other tenants and persons.
- 23. Complainant Widell then asked if Respondent Allen would prohibit the other tenants at the subject property from using the subject gate. Respondent Allen denied Complainant Widell's request for a reasonable accommodation, stating that the subject gate had to remain open for the reasons provided by Respondent Allen above.
- 24. Complainant Widell then asked for contact information for Respondent Crawford. Respondent Allen informed Complainant Widell that the decision not to restrict access through the subject gate was decided by both she and Respondent Crawford.
- 25. According to Respondent Allen, after the interaction with Complainant Widell, she returned to the management office and called Respondent

- Crawford, who instructed her to issue Complainant Widell a Notice of Disturbance for "acts outrageous."
- 26. On or about October 28, 2004, Complainant Widell received a Notice of Disturbance that stated "Screaming & yelling obsenities [sic] at manager."
- 27. At the time that Complainant Widell made these requests for a reasonable accommodation and/or modification, Complainant Widell also offered to provide a key to any lock placed on the subject gate so that maintenance, management, and the tenant who lived directly behind her, could still use the subject gate. The Respondents denied those offers.
- 28. After her requests for an accommodation and/or a modification to have the Respondents put a lock on the subject gate, to prohibit access by tenants through the subject gate, or to place her own lock on the subject gate were denied, Complainant Widell contacted Complainant FHCO.
- 29. On or about November 15, 2004, Complainant FHCO initiated a telephone mediation between Complainant Widell and the Respondents, facilitated by the Oregon Housing and Community Services. During the call, Complainant Widell again requested the ability to prohibit access through the subject gate due to her disabilities and resulting safety concerns. She again offered to provide a key to maintenance, management, and to the tenant who lived behind her, for any lock placed on the subject gate. During the telephone mediation, the Respondents denied Complainant Widell's request for an accommodation and/or modification.
- 30. As a result of the unsuccessful telephone mediation, on or about December 13, 2004, Complainant FHCO wrote a letter to Respondent Crawford on behalf of Complainant Widell seeking a reasonable accommodation.
- 31. On or about January 3, 2005, Respondent Crawford denied the request for a reasonable accommodation.
- 32. On or about February 1, 2005, Complainant FHCO wrote a second letter to Respondent Crawford asking him to reconsider Complainant Widell's request for a reasonable accommodation.
- 33. On or about April 6, 2005, Complainant FHCO wrote a third letter to Respondent Crawford regarding the request for an accommodation.
- 34. Respondent Crawford failed to respond to either Complainant FHCO's second or third letter.

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¹ The tenant directly behind Complainant Widell used the subject gate to visit and care for his elderly relative who lived on Complainant Widell's side of the subject gate.

- 35. On or about April 22, 2005, Complainant Widell and two neighbors became involved in an argument involving the subject gate. Complainant Widell asserts that one of the neighbors made a threatening comment directed at her. Ms. Harmon, Complainant Widell's caregiver, witnessed the incident and corroborates that the comment was made by the neighbor.
- 36. On or about April 26, 2005, Respondent Allen issued a 20-day Notice to Vacate to Complainant Widell. The notice states: "Continually causing problems with neighbors about gate. Yelling foul obsenities [sic] at children & adults."
- 37. None of the neighbors who were also involved in the argument that occurred on April 22, 2005 received even a notice of disturbance, despite that they had been swearing at Complainant Widell. Instead, Respondent Crawford requested that Respondent Allen have the neighbors involved document their recollections of the events that day. Respondent Allen also solicited comments from other neighbors who may have observed something that day. The Respondents never asked Complainant Widell about the incident.
- 38. On or about July 11, 2005, Complainant Widell moved from the subject property as a result of the eviction notice. While not rescinding the eviction notice, the Respondents allowed Complainant Widell to stay at the subject property until July 11, 2005 since she was not able to secure movers and the permits necessary to move her mobile home from the subject property any earlier.
- 39. According to Respondent Crawford, he follows set procedures concerning evictions including a three-strike policy for notices of disturbances and for a 72-hour pay or vacate notice, two-strikes for pet violations and maintenance clean-up notices, and one-strike for a 24 hour notice of eviction.
- 40. Complainant Widell received only one prior notice of disturbance, on October 28, 2004, before receiving the 20-day notice to vacate and that notice also involved her request for a reasonable accommodation or modification.
- 41. An analysis of the notices issued by the Respondents to other tenants at the subject property reflects a difference in treatment between Complainant Widell and those tenants.
- 42. The Respondents committed unlawful discrimination by failing to permit a reasonable modification when they refused to allow Complainant Widell to place a lock on the subject gate, thereby denying her the modification that was necessary to afford her the full enjoyment of her dwelling, in violation of 42 U.S.C. § 3604(f)(2) and (f)(3)(A).

- 43. The Respondents committed unlawful discrimination by failing to make a reasonable accommodation to their policy of not locking the subject gate, thereby denying Complainant Widell an equal opportunity to use and enjoy her dwelling in violation of 42 U.S.C. § 3604(f)(2) and (f)(3)(B).
- 44. By treating Complainant Widell differently than other tenants with respect to the issuance of notices of rules violations, the Respondents committed unlawful discrimination in the terms, conditions, or privileges of the rental of a dwelling on the basis of disability, in violation of 42 U.S.C. § 3604(f)(2).
- 45. By otherwise making unavailable or denying a dwelling to Complainant Widell when the Respondents evicted her because of her disability and retaliated against her and interfered with her housing because she requested a reasonable accommodation and a reasonable modification, the Respondents violated 42 U.S.C. § 3604(f)(1) and 3617.
- 46. As a result of the Respondents' discriminatory conduct, Complainant Widell has suffered damages, including economic loss, emotional and physical distress, inconvenience, and the inability to use and enjoy the subject property. Complainant Widell was forced to move her mobile home, give up her caregiver, find new medical care, and suffer loss of independence and autonomy.
- 47. As a result of the Respondents' discriminatory conduct, Complainant FHCO's mission was frustrated and it diverted resources in order to assist Complainant Widell in her requests for a reasonable accommodation and/or modification. Complainant FHCO will need to engage in educational and other outreach activities to counteract the Respondents' discriminatory conduct and its impact on Complainant FHCO's mission.

III. <u>CONCLUSION</u>

WHEREFORE, the Secretary of the United States Department of Housing and Urban Development, through the Regional Counsel for Region X, hereby charges Respondents D&S Investments, LLC; Stan Crawford; and Claudia Allen with engaging in discriminatory housing practices in violation of 42 U.S.C. §§ 3604(f)(1), (f)(2), (f)(3)(A), and (f)(3)(B) and § 3617 and prays that an order be issued, pursuant to 42 U.S.C. § 3612(g)(3), that:

- 1. Declares that the discriminatory housing practices of the Respondents, as set forth above, violate the Fair Housing Act, 42 U.S.C. §§ 3601-3619;
- 2. Enjoins the Respondents, their agents, employees, and successors, and all other persons in active concert or participation with any of them, from discriminating against any person, in violation of the Fair Housing Act, in

connection with any transaction involving any residential rental property owned or managed by the Respondents currently or in the future;

- 3. Enjoins the Respondents, their agents, employees, and successors, and all other persons in active concert or participation with any of them, from coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Act;
- 4. Awards such damages as will fully compensate Complainant Bonita Widell for her damages caused by the Respondents' discriminatory conduct;
- 5. Awards such damages as will fully compensate Complainant Fair Housing Council of Oregon for its damages caused by the Respondents' discriminatory conduct;
- 6. Awards a civil penalty against Respondents for each violation of the Act; and
- 7. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted,

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